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SENATE

REPORT
100-400

NATIONAL COMMISSION ON ACQUIRED IMMUNE DEFICIENCY SYNDROME ACT

JUNE 24, (legislative day, JUNE 23), 1988.—Ordered to be printed

Mr. KENNEDY, from the Committee on Labor and Human Resources, submitted the following

REPORT

together with

ADDITIONAL VIEWS

[To accompany H.R. 2881]

The Committee on Labor and Human Resources, to which was referred the bill (H.R. 2881) to establish a National Commission on Acquired Immune Deficiency Syndrome, having considered the same, reports favorably thereon with an amendment in the nature of a substitute and recommends that the bill as amended do pass.

I. SUMMARY OF THE BILL

H.R. 2881 establishes a commission, to be known as the National Commission on Acquired Immune Deficiency Syndrome, to consider and make recommendations to the Congress and the President on national policy and priorities with respect to health care financing, education and prevention, testing, confidentiality of test results, discrimination, resource allocation, and research regarding AIDS. The Commission is to be composed of 15 members, five of whom are appointed by the President, five by the President pro tempore of the Senate, and five by the Speaker of the House. The congressional appointments are to be made upon the joint recommendations of the majority and minority leaders. The individuals selected for membership on the Commission are to be specially qualified by reason of education, training, or experience.

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The Commission will not begin its work until after the termination of the Presidential Commission on the Human Immunodeficiency Virus Epidemic, whose final report is due June 24, 1988. The National Commission will submit an interim report at the end of its first year's work and a final report at the end of the second year. It will then terminate unless the President extends it for a period not to exceed two years. Funding of $2,000,000 is authorized for the Commission for FY 1988, and such sums as necessary in any subsequent fiscal year, to remain available until expended.

II. BACKGROUND AND NEED FOR LEGISLATION

Acquired immune deficiency syndrome (AIDS) is considered by many to be the gravest public health threat of this century. The already alarming statistics are projected to worsen considerably in the next few years, both in this country and to an even greater degree in the developing world. The current U.S. count of over 62,000 cases and 35,000 deaths is predicted to rise to 270,000 cases and 179,000 deaths by 1991, while the worldwide total of AIDS cases, now estimated at between 100,000 and 150,000 may rise to between 500,000 and three million by 1991. The Public Health Service estimates that 1 to 1.5 million Americans are currently infected with the AIDS virus.

Since its identification in 1981, the threat of AIDS has provoked a variety of responses at all levels of our society. Because medical science has not yet provided a cure or a vaccine for the disease (and possibly may never do so), many difficult dilemmas must be faced in the realm of social policy. There has already been intense debate over such national policy issues as strategies for controlling the spread of the AIDS virus, methods and resources available for the care and treatment of persons with AIDS, and numerous concerns about AIDS education, civil rights, and other legal issues. Often these debates have been carried on in an atmosphere shaped by partisan politics and philosophical differences.

The need for a comprehensive national strategy on AIDS has been evident for some time, and many feel that the country's efforts to come to grips with the epidemic were seriously compromised in the mid-eighties by the lack of such a comprehensive plan. During the past nine months, the work of the Presidential Commission on the Human Immunodeficiency Virus Epidemic, under the leadership of retired Admiral James D. Watkins, has done much to lay the foundations of a coordinated plan. In March the Presidential Commission released an interim report with excellent policy and funding recommendations regarding basic research and drug development, health care, and intravenous drug-abuse treatment and prevention. Since then, the Commission has gone on to consider issues of education, prevention, counseling and testing, non-discrimination, and confidentiality. Its final report is due June 24, 1988, after which the Commission will terminate.

There is an ongoing need, however, for a forum in which to develop further recommendations and monitor implementation of the recommendations of the Presidential Commission. The National Commission proposed in this bill is designed to fulfill that role for the next two years, and for an additional two years if the President

finds it necessary. Few aspects of our national life will remain untouched by the AIDS epidemic in the coming years, and it is certain that both the Congress and the executive branch will be facing many important decisions about AIDS for some time. This Commission is intended to provide continuing expert advice and leadership to help us make sound, objective, and cost-effective decisions in this vital effort.

III. NATIONAL COMMISSION ON AIDS

Committee views

The Committee believes that the Acquired Immunodeficiency Syndrome and the Human Immunodeficiency Virus epidemic constitute both a national and international public health emergency. The AIDS epidemic has created unique and complex new problems for virtually every sector of our society. The consequences of the epidemic for certain groups in the population—particularly gay and bisexual males, intravenous drug users, blacks, hispanics and Native Americans—are already devastating. The potential consequences for all others are equally grave unless decisive and effective education and prevention programs are rapidly implemented to halt the continued spread of HIV infection.

It is the view of the Committee that the AIDS virus does not discriminate based on sex, age, race, ethnic or national origin, or sexual orientation. HIV can infect anybody who has unprotected sexual contact with an infected individual. HIV can infect anybody who shares intravenous needles or syringes. HIV can be passed from mother to unborn child. As a result of the development of screening tests for HIV antibody, transmission of the virus through contaminated blood or blood products has been virtually eliminated in the United States. However, prior to the advent of the screening test, tens of thousands of Americans became infected with HIV through blood transfusions or the use of Factor VIII concentrates used in the management of hemophilia. Indeed, in many developing nations unable to afford implementation of screening measures, contaminated blood continues to be a significant route of transmission of this lethal virus.

Recognizing that AIDS and the HIV epidemic has now reached every one of the fifty states and into the territories and possessions of the U.S., the committee believes that a new and concerted national effort is required to mobilize the resources of this nation to overome the menace that AIDS poses to the American people and to all future generations.

Based on its review of the available scientific information, the Committee believes that the elimination of AIDS and the HIV epidemic will require the best efforts of our nation and our civilization for many years to come. In the view of the Committee, arresting the spread of HIV infection will not occur as a result of legislative fiat or the adoption of punitive approaches imposed upon individuals who are already infected with the AIDS virus. Halting the spread of HIV is fundamentally dependent upon encouraging and achieving changes in personal behaviors, both on the part of individuals who are infected and those who are uninfected. Achieving such fundamental behavior change will require the active partici-

pation of individuals and institutions at every level of our society. It is the firm belief of the Committee that a thorough understanding of AIDS and its relationship to HIV is the first and very probably the best defense against this epidemic.

The Committee finds that the HIV epidemic has brought with it not only pain, suffering, and death, but also confusion, fear and hatred. In some instances, those infected with HIV have come to be treated as villains. Individuals who are sick and in need of help have been met with rejection rather than compassion and assistance. The Committee believes that fear of discrimination has had a chiling effect on the acceptance and implementation of potentially useful and effective public health measures. In addition, the Committee finds that discrimination has resulted in denial of access to essential health care and social services, housing, employment, insurance and even burial services.

The Committee also finds that this epidemic has taken an appreciable toll on America's institutions. The advent of AIDS and HIV infection has impacted not just our hospitals and health care system, but government at every level, businesses large and small, religious and voluntary organizations, the worlds of art and entertainment, as well as the agencies and organizations which defend our borders, teach our children, police our streets, and bury the dead.

In particular, the Committee is concerned about how the nation will come to terms with the economic impact of AIDS and HIV infection. AIDS is a problem that no one could have anticipated even a decade ago, yet it has brought with it financial burdens measured in the tens of billions of dollars this year, perhaps hundreds of billions in decades to come. As of yet, there is no accepted formula for apportioning the unavoidable costs of AIDS care and treatment. Moreover, if our nation is to halt the spread of HIV infection and devise effective treatments and a vaccine for HIV, additional funds must be invested in expanded and intensified education and research programs.

The Committee strongly believes that the AIDS crisis demands a comprehensive review of our nation's research and medical systems and an assessment of their adequacy for addressing a public health emergency of this serious nature. AIDS and the HIV epidemic have placed a great strain on our national programs of basic and clinical research, drug development and approval, health care delivery and finance, mental health and behavioral research, disease prevention and drug treatment as well as systems for training professionals at all levels to serve within these programs. The Committee directs that the Commission pay particular attention to identifying opportunities to improve the operation and effectiveness of such programs and systems, including resource and manpower needs.

The Committee also finds that AIDS has raised complex problems of ethics and law, morality and community values. It is the belief of the Committee that the resolution of these problems and concerns can be achieved through the balanced application of common sense, compassion, and sound public health principals which are consistent with this nation's concern for individual civil and human rights.

In light of the gravity of AIDS and the HIV epidemic, the disruptions the epidemic has already caused, the economic and emotional stress that AIDS has imposed on individuals and institutions, the Committee believes it is necessary and advisable to convene a National Commission on AIDS. The Committee intends that appointees to this commission shall be selected on the basis of expertise and experience in the fields of science, public health, research, medicine, mental health, substance abuse, social science, social services, health care and health finance, law, and ethics.

It is the express intent of the Committee that the National Commission be bipartisan in make-up and operation and that the Commission shall serve as an expert advisory panel to both the Administration and the Congress. Further, it is the Committee's intention that the National Commission should not duplicate the work of the Presidential Commission on the HIV Epidemic, but build upon that work to the full extent deemed appropriate by the membership of the National Commission. For this specific reason, the Committee chose to have the National Commission formed and hold its first meeting following the issuance of the final report by the Presidential Commission.

The Committee urges the Chairman of the National Commission to give careful consideration to employing staff members who served the Presidential Commission. In light of the tremendous time commitment required to investigate and understand the complex issues raised by AIDS, the Committee has also included provisions that would allow, but do not require, the Chairman or certain other members of the Commission to be paid for their services.

Finally, the Committee believes that it is essential to develop a national consensus on strategies that are required to cope with this public crisis. It is the hope of the Committee that the Commission can serve as a forum for the development of such a consensus. Recommendations alone, no matter how carefully developed and documented, will not result in the adoption and implementation of sound and comprehensive national policy on AIDS. A national policy on AIDS, backed by action and resources, is urgently needed. It will require the full support of the American people, of the nation's civic and private sector leaders, and of the individuals and communities directly affected by AIDS.

IV. COST ESTIMATE

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, April 28, 1988.

Hon. EDWARD M. KENNEDY,
Chairman, Committee on Labor and Human Resources, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the attached cost estimate for H.R. 2881, the National Commission on Acquired Immune Deficiency Syndrome Act, as ordered reported by the Senate Committee on Labor and Human Resources on April 13, 1988.

If you wish further details on this estimate, please call me or have your staff contract Lori Housman (226-2820).

Sincerely,

JAMES L. BLUM,
Acting Director.

CONGRESSIONAL BUDGET OFFICE—COST ESTIMATE

1. Bill number: H.R. 2881.

2. Bill title: National Commission on Acquired Immune Deficiency Syndrome (AIDS) Act.

3. Bill Status: As order reported from the Senate Committee on Labor and Human Resources, April 13, 1988.

4. Bill purpose: The purpose of H.R. 2881 is to establish a national commission on AIDS.

5. Estimate cost to the Federal Government:

[By fiscal years, in millions of dollars]

	1988	1989	1990	1991	1992	1993
Authorization Level	2					
Estimate Outlays	0	1	1			

Basis of estimate: H.R. 2881 states the authorization level for the Act. This amount is assumed to be appropriated at the end of fiscal year 1988. The bill would establish a Commission that would report to Congress within one year after the Commission is formed and issue a final report within two years. CBO expects spending by the Commission would be spread evenly over its two year life.

The bill would also require the Administrator of Veterans' Affairs to prepare a compilation and synopsis of all medical research on AIDS throughout the world. The $2 million authorization stated in the bill is for the entire act and would cover additional costs for both the Commission and the Administrator of Veterans' Affairs. CBO expects a compilation and synopsis of AIDS research to be costly. If the authorization and subsequent appropriation is insufficient, current Veterans Administration funds would have to be redirected to complete the compilation.

6. Estimated cost to State and local government: None.

7. Estimate comparison: None.

8. Previous CBO estimate: Carmela Dyer of CBO has previously prepared the following estimates:

On July 17, 1987, H.R. 2881, the National Commission on Acquired Immune Deficiency Syndrome Act, as ordered reported by the House Committee on Veterans' Affairs.

On August 4, 1987, H.R. 2881, the National Commission on Acquired Immune Deficiency Syndrome Act, as ordered reported by the House Committee on Energy and Commerce.

9. Estimate prepared by: Lori Housman.

10. Estimate approved by: C.G. Nuckols for James L. Blum, Assistant Director for Budget Analysis.

V. VOTES IN COMMITTEE

H.R. 2881, in the form of a substitute, was favorably passed out of the Labor and Human Resources Committee by voice vote on April 13, 1988.

VI. REGULATORY IMPACT STATEMENT

The Committee has determined that there will be minimal or no increase in regulatory burden of paperwork imposed by this bill.

VII. SECTION-BY-SECTION ANALYSIS

Section 1. Short title

Section 1 entitles the Act as the "National Commission on Acquired Immune Deficiency Syndrome Act."

Section 2. Establishment

Section 2 establishes the National Commission on Acquired Immune Deficiency Syndrome ("Commission").

Section 3. Duties of commission

Section 3 sets forth the duties of the Commission. Its general purppose is to study and make recommendations for national policy concerning AIDS. Seven specific areas are set forth for the Commission's examination, evaluation, and recommendation:

(1) public and private financing of health care and research needs, especially the role of the insurance industry and the States;

(2) dissemination of information for AIDS education and prevention efforts;

(3) any necessary behavioral changes needed to combat AIDS;

(4) allocation of financial resources to Federal departments and agencies and State and local governments;

(5) AIDS testing and counseling, particularly with respect to maintaining confidentiality;

(6) Federal and State laws concerning (a) protection of the public from infectious diseases, including laws relating to immigration, liability, and discrimination, and (b) problems in employment, housing, insurance, and education encountered by people with AIDS, including privacy and confidentiality laws; and

(7) international coordination and cooperation concerning data collection, treatment modalities, and research.

The Commission is to hold hearings with witnesses representing the views of individuals, organizations, and government agencies involved with AIDS.

Section 4. Membership

Section 4 describes the membership of the Commission, including the procedures for appointments, terms of office, meetings, and pay. The Commission shall have 15 members, five each appointed by the President, the House of Representatives, and the Senate. They shall serve for the life of the Commission. The President's ap-

pointees are to include the Secretary of Health and Human Services, the Administrator of Veterans' Affairs, the Secretary of Defense, and two specially qualified members of the general public. The congressional appointees are to be specially qualified by reason of their education, training, or experience, and among the 10 members there is to be as much balance of expertise across several fields as possible. Congressional appointees in each house would be made upon the joint recommendations of the majority and minority leaders of the Senate and of the House of Representatives. Provisions are made for selection of a chairman, the size of a quorum, the timing of meetings of the Commission (the first meeting will be no earlier than September 1, 1988), pay for the Commission members, and the deadline for the members to be appointed (no earlier than July 1, 1988).

Section 5. Reports

Section 5 provides for interim reports and the final report of the Commission. At the end of its first year, the Commission is required to submit to the President and to Congress a report on its activities to date, including any recommendations for legislation and administrative action. The Commission's final report is due at the end of the second year.

Section 6. Executive Director and Staff

Section 6 provides for the appointment and compensation of an Executive Director and staff for the Commission, for the procurement of consultant services, and for the detail of personnel or the provision of administrative and support services from the Department of Health and Human Services and the Veterans' Administration.

Section 7. Powers of Commission

Section 7 provides that the Commission may conduct hearings, take testimony, and swear witnesses; may delegate authority to its members and employees; may have access to information directly from executive departments and agencies; and may use the United States mails.

Section 8. Authorization of Appropriations

Funding of $2,000,000 is authorized for the Commission for FY 1988, and such sums as necessary in any subsequent fiscal year, to remain available until expended.

Section 9. Termination

The Commission shall cease to exist 30 days after its final report is submitted. The President may extend the life of the Commission for not more than two years.

VIII. ADDITIONAL VIEWS OF ORRIN G. HATCH

While I was one of the first advocates of establishing a National Commission on AIDS, I am opposed to this legislation in its current form for several reasons. First, it duplicates the existing efforts of the Presidential Commission on the HIV Epidemic. Before Congress has had a chance to review and act on the recommendations of the existing Commission, we are attempting to establish another one.

Congress currently has access to extensive expertise on this issue. We have the world's experts on AIDS, the members of the Public Health Service, available to us on a daily basis. In addition, if we want a second opinion, the National Academy of Sciences or the American Medical Association or any one of a dozen other prominent organizations are available to advise us.

Secondly, the resources intended for this Commission can be better used elsewhere. While $2 million is not a great deal of money in the context of the $1 trillion federal budget, it should not be wasted. For example, this money could provide home health care services for 200 to 400 patients with AIDS or fund the public education efforts for six states the size of Utah.

Finally, I am concerned about the structure of this Commission, which would be appointed by both Congress and the Administration. If Congress needs an advisory body on this issue, it should be appointed by Congress. If Congress believes that the Administration needs another advisory body, it should be appointed by the Administration under guidelines laid down by the Congress.

There may be valid reasons for establishing a second Commission in the future; but, as of now, I see little justification for proceeding with this legislation. Our efforts, resources and time can be better spent on enacting legislation such as S. 1220, the Acquired Immunodeficiency Syndrome Research and Information Act of 1987, or on helping fight AIDS directly than on creating yet another body to issue a report to Congress.

ORRIN G. HATCH.

We the undersigned agree with the views of Senator Hatch.

DAN QUAYLE.
THAD COCHRAN.
STROM THURMOND.
GORDON HUMPHREY.